IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

MFA.No. 812 of 2001()

OPMV.1516/1996 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ERNAKULAM .
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APPELLANT: PETITIONER

M.K.RAJAPPAN, S/O. KUNJAPPI,
KARAKKATTUPARAMBIL HOUSE,
NEDUMBASSERY PANCHAYAT, MEKKADU P.O.

BY ADV. SRI.ANIL S.RAJ

RESPONDENTS: RESPONDENTS
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1. **K.P.FRANCI,S S/O. PATHROSE,**
   KOCHUVEETTIL HOUSE,
   ELAMKULAM COCHIN.17

2. **V.K.AJITHKUMAR, S/O. KARTHIKEYAN,**
   VAZHAPPARAMBIL HOUSE,
   NEAR KAVALAKKAL TEMPLE,
   ELAMKULAM , COCHIN 20.

3. **THE UNITED INDIA INSURANCE CO.LTD.,**
   TRIPUNITHURA.

BY ADV. SRI.MATHEWS JACOB (SR.) - R3
SRI.P.JACOB MATHEW

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A. No. 812 of 2001

Dated this the 5th day of July, 2007

Judgment

Koshy, J.

A manual unskilled worker, aged 33, sustained serious injuries in a motor accident. Tribunal found that the accident occurred due to the negligence of the vehicle insured by the third respondent. However, against a claim of Rs.2,62,750/-, total compensation awarded was only Rs.71,250/- with interest. Only quantum of compensation is disputed in this appeal.

2. The injury suffered by him was as follows as can be seen from Ext.A5:

> "27 x 3 c.m. lacerated wound (Lt) foot, medial aspect with contamination injury, a degloving injury, compound comminuted fracture both bones (Lt) leg lower third."

Doctor certified 10% disability due to open fracture of left leg. Since doctor was not examined, compensation

was not granted for the disability and loss of earning power. However, Rs.15,000- was granted towards loss of amenities, enjoyment in life, discomfort and other inconveniences. In the absence of any evidence, tribunal assessed monthly income at Rs.1,500/-. In the absence of data, we are not changing the same. He was aged 32. Taking guidelines from the second schedule, we fix 17 as the multiplier following the three member bench decision of the Supreme Court in Smt. Supe Dei and others v. M/s. National Insurance Co. Ltd. and another (JT 2002 (Suppl.1) SC 451). There is no material to discard the disability certified (Ext.A7) which was marked by court. If that be so, compensation payable for 10% disability will be Rs.1500 x 12 x 17 x $\frac{10}{100}$ = Rs.30,600/-. After deducting Rs.15,000/- already granted, balance compensation payable will be Rs.15,600/-. Therefore, claimant will be entitled to Rs.15,600/- more towards loss of amenities, enjoyment in life, discomfort and other inconveniences. We see no ground to enhance the compensation awarded under other heads. The above amount of Rs.15,600/- shall be deposited by the third respondent

insurance company with 8% interest from the date of application till its deposit.

The appeal is disposed of.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A.NO.812/2001

JUDGMENT

Dated:5th July, 2007